

2. Petitioner filed this appeal to contest the discontinuance of Kinship Care benefits for her 4 grandchildren.
3. Petitioner and her grandchildren were living in Racine and Petitioner awarded guardianship, under Wis. Stats. §48.977, of the 4 children involved here on or about September 8, 2013. She began receiving Kinship Care benefits for the children at that same time.
4. Petitioner moved to Georgia shortly after the events just noted.
5. In October 2013 agency personnel became aware of a statutory provision prohibiting the payment of long term Kinship Care to children who have left the state, hence the discontinuance of Petitioner's Kinship Care.

DISCUSSION

The Kinship Care benefit is a public assistance payment of \$226 per month per child paid to a qualified relative who bears no legal responsibility to support the child. In Wisconsin, this benefit replaces the former Non-Legally Responsible Relative (NLRR) Aid to Families with Dependent Children (AFDC) payment.

The statutory provision that the agency became aware of in October 2013 reads in relevant part as follows:

6. The long-term kinship care relative and the county department or department enter into a written agreement under which the long-term kinship care relative agrees to provide care and maintenance for the child and the county department or department agrees, subject to sub. (3p) (hm), to make monthly payments to the long-term kinship care relative at the rate specified in sub. (3m) (am) (intro.) until the earliest of the following:

...

f. The date on which the child moves out of the state.
Wis. Stats., 48.57(3n)6f.

Petitioner is frustrated by all that has occurred here and argues that none of it is her fault. She maintains that the agency was aware of the fact that she was relocating to Georgia at the time that the guardianship and Kinship Care benefit was arranged.

While the agency notes that Petitioner did sign a 'Permanency Options in Brief' form in August 2013 that indicated that benefits do not follow a child moving out of State; it does not dispute the fact that it knew Petitioner was moving out of State. There is a general agreement here that this might better have been pursued as a subsidized guardianship case in the initial stages of arranging the placement and benefits. Petitioner maintains that the agency should have known how to structure this so as to assure economic support. Returning to Wisconsin to initiate court proceedings to reverse the guardianship may not be feasible because of time and expense; nonetheless, a knowledgeable agency staff member for Petitioner to contact to explore potential remedies to this situation is Dan Chiapetta of Racine County Human Services and he may be contacted at [REDACTED].

I must conclude that the Division of Hearings and Appeals does not have the authority to craft a remedy here nor can it ignore the statutory provisions applicable here.

CONCLUSIONS OF LAW

That, by Wisconsin State statute, Kinship Care payments cannot continue where the children for whom the payment is made have moved out of the State of Wisconsin.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Children and Families. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 201 East Washington Avenue, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 3rd day of July, 2014

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 3, 2014.

Racine County Department of Human Services

DCF - Kinship Care

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